

KULBHUSHAN JADHAV CASE**Prelims-** International Policies and Schemes**Mains-** GS-II Important International institutions, agencies and fora- their structure, mandate.✚ **Context-** ICJ verdict delivered in the Kulbhushan Jadhav case**What is the Case:**

- ✚ Mr. Jadhav, a retired Indian Navy officer was sentenced to death by a Pakistani military court on charges of espionage and terrorism in April 2017.
- ✚ India approached the ICJ in May 2017 against Pakistan for **denying consular access** to Mr. Jadhav.

Indian stand on case

- ✚ India has said the sentence is based on an “extracted confession”.
- ✚ India has argued
 - ❖ The sentence violates international law and provisions of the Vienna Convention;
 - ❖ India is entitled to restitution in integrum (restoration to original condition);
 - ❖ The ICJ should annul the military court decision and restrain Pakistan from giving effect to the sentence or conviction; and
 - ❖ Pakistan should be directed to release Jadhav immediately and facilitate his safe passage to India.
- ✚ If the ICJ were to find that Jadhav is not to be released, then India has requested:
 - ❖ Annul the military court decision and restrain Pakistan from giving effect to the sentence; or
 - ❖ Direct it to take steps to annul the military court decision; or
 - ❖ Direct a trial under ordinary law in civilian courts, after excluding his confession and in strict conformity with provisions of the International Covenant on Civil and Political Rights, with full consular access and a right to India to arrange for his legal representation.

Pakistan stand:

- ✚ Pakistan has asked the ICJ to “dismiss or declare inadmissible” India’s claim.
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ICJ Verdict on Jadhav Case:

- ✚ verdict that accepted India's plea that former Indian naval officer Kulbhushan Jadhav's trial under espionage and terror charges in Pakistan **violated international law**.
- ✚ Pakistan should "review and reconsider" his conviction and death sentence.
- ✚ Pakistan should give the Indian government consular access to Mr. Jadhav.

Vienna Convention:

- ✚ **consular access** constituted a "breach" of article 36 para 1(b) of the Vienna Convention on Consular Relations (1963) which Pakistan is a signatory to, which stipulates that all foreign nationals arrested must be given access to their government or local embassy, and rejected Pakistan's counter-claim that the Vienna convention didn't apply in a case of espionage.

Are ICJ Judgments Binding?

- ✚ Judgments delivered by the court (or by one of its chambers) in disputes between states are binding upon the parties concerned.
- ✚ Article 94 of the United Nations Charter provides that "each Member of the United Nations undertakes to comply with the decision of [the court] in any case to which it is a party".
- ✚ Judgments are final and without appeal.
- ✚ If there is a dispute about the meaning or scope of a judgment, the only possibility is for one of the parties to make a request to the court for an interpretation.
- ✚ In the event of the discovery of a fact hitherto unknown to the court which might be a decisive factor, either party may apply for revision of the judgment.